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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/565,154

01/19/2006

Hitoshi Mizuno

OMY-0050

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RADER FISHMAN & GRAUER PLLC  
LION BUILDING  
1233 20TH STREET N.W., SUITE 501  
WASHINGTON, DC 20036

EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

06/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/565,154 | <b>Applicant(s)</b><br>MIZUNO ET AL. |  |
|                              | <b>Examiner</b><br>Scott Kastler     | <b>Art Unit</b><br>1793              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/1/08, 1/24/08, 4/18/07, 3/12/07, 1/19/06</u> .              | 6) <input type="checkbox"/> Other: ____.                          |



***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It was not executed in accordance with either 37 CFR 1.66 or 1.68. The signature of one inventor (Tsuyoshi Abe) has been omitted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-7 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication 2003-083682 (JP'682). JP'682 teaches a container (100) capable of being hermetically closed and storing molten metal and supplying molten metal to the outside by pressure comprising a frame (100a) a heat insulating wall (100b), a refractory insulating member in solid form (100c) and an inner refractory storing bath (100d) meeting the instantly recited requirements and showing all aspects of the above claims.

Claims 1, 4-7 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication 2004-074183 (JP'183). JP'183 teaches a container (1) capable of

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being hermetically closed and storing molten metal and supplying molten metal to the outside by pressure comprising a frame (6) a heat insulating wall (7), a refractory insulating member in solid form (9) and an inner refractory storing bath (8) meeting the instantly recited requirements and showing all aspects of the above claims.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of JP'682 or JP'183 in view of WO 92/20479 (WO'279). Each of JP'682 and JP'183 shows all aspects of the above claims except for the use of a refractory in granular or powder form as the layer between the heat insulating layer and the refractory storing bath layer. WO'279 teaches that powdered or granular refractory materials were also known at the time the invention was made as suitable insulating ceramics (7) for insertion between refractory linings (8 and 3) and were also desirable because of the ease of repair and insertion of the inner lining (8) afforded thereby. Because ease of assembly and repair would also be desirable in the containers of each of JP'682 and JP'183, motivation to employ a granular or powdered refractory material as suggested by

WO'279 as the materials (100c or 9) of either of JP'682 or JP'183 would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mizuno et al and Abe et al are also cited as further examples of prior art containers including an interior refractory storing bath.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Scott Kastler/  
Primary Examiner, Art Unit 1793

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